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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,083	12/11/2003	Shigeru Miki	362-86	8465

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EXAMINER

NEGRON, WANDA M

ART UNIT	PAPER NUMBER
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2622

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/733,083

Applicant(s)

MIKI, SHIGERU

Examiner

Wanda M. Negron

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Takashi et al. (EP Application Publication 0 909 084 A2).**

4. Regarding **claim 1**, Takashi et al. disclose an image recording apparatus, i.e. a digital camera with recording capability (see Abstract), that records image data on a recording medium, e.g. a memory card (46), in which a recording area is divided into a plurality of unit areas, i.e. plurality of clusters for an optimal format (see Abstract) and available unit areas can be dispersedly distributed, i.e. stored in a "sporadic fashion" (see paragraph [0003], comprising a detecting means, i.e. a CPU (28), for detecting a capacity of said recording medium, i.e. an inherent process when the optimal format is required (see S65); and a setting means, i.e. a CPU (28), for setting said unit areas to a larger size as the capacity detected by said detecting means is large, i.e. performing an optimal format with larger clusters if a normal format is detected (see paragraph [0044]).

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5. Regarding **claim 5**, Takashi et al. disclose a digital camera (see Abstract) provided with the image recording apparatus according to claim 1.

6. Method **claim 6** is drawn to the method of using the corresponding apparatus claimed in claim 1. Therefore, method claim 6 corresponds to apparatus claim 1 and is rejected for the same reasons of anticipation as used above.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takashi et al. (EP Application Publication 0 909 084 A2).**

9. Regarding **claim 4**, Takashi et al. do not explicitly disclose that said image data is motion image data formed by a plurality of screens of still images, and that said setting means sets the size of said unit area in consideration of a bit rate of the motion image data. Official notice is taken that digital cameras that record still and motion image data are well known in the art. It would have been inherent to set the unit area taking in consideration the bit rate of the motion image data in order to avoid synchronization problems between the bit rate of the imager output and the bit rate of the recording apparatus.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to store motion image data in the device taught by Takashi et al. because the user could record events that require motion-image capture.

10. Regarding **claim 9**, Takashi et al. disclose a digital camera (see Abstract) provided with the image recording apparatus.

11. **Claims 2-3 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takashi et al. (EP Application Publication 0 909 084 A2) as applied to claims 1, 5 and 6 above, and further in view of Satoh et al. (US 5,717,496).**

12. Regarding **claim 2**, as mentioned in the discussion of claim 1 above, Takashi et al. disclose all the limitations of the parent claim. Takashi et al., however, do not explicitly teach a specifying means for specifying a recordable number of frames, i.e. still image files, of said recording medium on the basis of the capacity detected by said detecting means, i.e. identifying the number of frames given the capacity of the memory card and a fixed-size for the still image files, wherein said setting means sets the size of said unit area on the basis of the recordable number of frames specified by said specifying means.

Satoh et al., on the other hand, disclose means for specifying a recordable number of frames of said recording medium, i.e. means for identifying the number of frames given the capacity of the memory card and a fixed-size for the still image files, (see col. 44, lines 15-22), where the number of frames that can be recorded can be

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retrieved by the user (see col. 44, lines 48-52). In addition, Satoh et al. disclose that the user can select the image file size (see col. 44, lines 31-33), which suggests to one of ordinary skill, the use of a setting means for setting the size of the unit area to conform to the selected file size.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the specifying means taught by Satoh to the image recording apparatus disclosed by Takashi et al. because this configuration allows the user to select the compression mode to be used, i.e. the fixed size of the image files, which determines the image quality of the reproduced image.

13. Regarding **claim 3**, Satoh et al. disclose that said image data is compressed image data compressed by rendering a predetermined size a target, i.e. the image data is compressed according to a user file size selection (see col. 44, lines 31-33), and it would have been inherent to identifying the number of frames given the capacity of the memory card and a fixed-size for the still image files.

14. Regarding **claims 7 and 8**, Takashi et al., as modified by Satoh et al., disclose a digital camera (see Takashi et al., Abstract) provided with the image recording apparatus.

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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wanda M. Negrón whose telephone number is (571) 270-1129. The examiner can normally be reached on Mon-Fri 6:30 am - 4:00 pm alternate Fri off.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wanda M. Negrón
March 19, 2007



DAVID OMETZ
SUPERVISORY PATENT EXAMINER